IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.244 OF 2005

Ramesh Chandra Sharma. .. .. Petitioner
v/s.
The Estate Officer, National Textile Corporation (Maharashtra North) & ors. .. ..Respondents

Ms.Snehal Paranjpe i/by Ms.Mohana Nair for petitioner.

Mr.Y. Divekar for res.No.2.

Mr.D.A.Dubey for res.No.4.

CORAM : H.L. GOKHALE &
S.C.DHARMADHKARI, JJ.

DATED : 28TH FEBRUARY 2005

P.C. :

1. Heard the learned Counsel for the parties.

2. The petitioner claims to be an heir of the original allottee of shop-cum-residence premises situated in the property belonging to respondent No.2-National Textile Corporation. There have already been eviction proceedings against the petitioner and on an order of remand passed by the Principal Judge, City Civil Court, further enquiry under the Public Premises Act is going on.

Mr.Divekar appearing for respondent No.2 states that the enquiry is nearly completed and an order remains to be passed. He also points out that as recorded by the learned Judge of the City Civil Court in the order in appeal passed earlier, the premises were locked for more than three years and notices sent to the petitioner, could not be served.

3. Ms.Paranjpe appearing for the petitioner submits that all those actions were against the dead person and the petitioner did not get an opportunity of being heard. She further submits that the shop premises concerned, if it was locked, should be restored back to the petitioner during the pendency of the enquiry proceedings.

4. Having heard both the Counsel and having noted their submissions, since the premises concerned was locked for all this time, we are not inclined to accept the submission that as an ad-interim measure, the premises be restored to the petitioner. This is particularly in view of the statement made by Mr.Divekar and in view of the undertaking given by the petitioner earlier that he is prepared to accept the alternate

premises. Mr.Divekar states that an alternate residential accommodation will be given to the petitioner within one week from today on payment of the necessary rent for the premises. It will be open to the petitioner to accept that alternate accommodation and also carry on the litigation concerning the shop premises, in the event the Enquiry Officer passes an order adverse to the petitioner. All the submissions of the petitioner will be open to him in the enquiry proceedings as also in the further appeal, if required.

5. Ms.Paranjpe appearing for the petitioner states that the petitioner would like to carry on some business in the alternate premises and she prays that the rent be reduced. The petitioner may make a representation in that behalf to the respondents and the respondents will consider it.

6. It will be open to the petitioner to remove his articles in the shop premises and Mr.Divekar for the respondents states that the respondents have no objection for removing the articles after making the necessary inventory. Petition is disposed of.

(H.L. GOKHALE, J.)

(S.C.DHARMADHIKARI, J.)